

AN ORDINANCE

03-○-0654

BY: COUNCILMEMBER DEBI STARNES

AN ORDINANCE TO APPROVE THE CITY OF ATLANTA'S PARTICIPATION IN THE "DOWNTOWN ATLANTA HOME BANNER" PROGRAM; TO AUTHORIZE THE MAYOR OR HER DESIGNEE THE COMMISSIONER OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH THE DOWNTOWN ATLANTA COMMUNITY IMPROVEMENT DISTRICT RELATING TO SUCH PROGRAM; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, by resolution designated "95-R-1374," as amended by supplemental resolution "02-R-0241," the City of Atlanta activated and consented to the creation of the Downtown Atlanta Community Improvement District (the "District") to provide, accelerate, supplement, and enhance governmental services and facilities in the geographic area served by the District as permitted under the Atlanta Community Improvement District Act, 1991 Ga. Laws 3653, as amended; and

WHEREAS, the City of Atlanta has determined that the District's "Downtown Atlanta Home Banner" program to place decorative hanging banners on light poles and other standards in various locations in Downtown Atlanta will enhance the beauty of streets and sidewalks in the portion of the City of Atlanta served by the District and thus improve the general welfare of the City's citizens, workers, and visitors; and

WHEREAS, the City of Atlanta has determined that the Mayor or her designee the Commissioner of Public Works is the appropriate City official to execute and oversee an agreement with the District governing the "Downtown Atlanta Home Banner" program,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1. The City of Atlanta agrees to participate, in cooperation and partnership with the Downtown Atlanta Community Improvement District, in the "Downtown Atlanta Home Banner" program to place hanging decorative banner on light poles and other standards along streets in the geographic area served by the Downtown Atlanta Community Improvement District.

Section 2. The Mayor or her designee the Commissioner of Public Works is hereby authorized to enter into an agreement with the Downtown Atlanta Community Improvement District for the operation of the "Downtown Atlanta Home Banner" program substantially in the form attached hereto as Exhibit "A."

Section 3. To the extent that this Ordinance and the agreement authorized pursuant to this Ordinance are in conflict with the provisions of Sections 138-20 through 138-26 of the Code of Ordinances of the City of Atlanta relating generally to encroachments, or with the provisions of Sections 138-60 of the Code of Ordinances of the City of Atlanta relating specifically to flags, banners, signs, and displays, such provisions are hereby waived to the extent of such conflict.

Section 4. All ordinances or parts of ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of such conflict.

Memorandum of Agreement Concerning the “Downtown Atlanta Home Banner” Program

This Memorandum of Agreement (hereinafter the “**Agreement**”) between the City of Atlanta (hereinafter the “**City**”), a municipal corporation of the State of Georgia, and the Downtown Atlanta Community Improvement District (hereinafter the “**District**”), a public corporation of the State of Georgia, is entered into this _____ day of May, 2003.

A. PURPOSE

The Purpose of this Agreement is to establish and govern a program for the permanent placement of hanging decorative banners in the public right-of-way to enhance the beauty of downtown Atlanta. This program, the “Downtown Atlanta Home Banner” Program (the “**Program**”), is a joint program of the City and the District intended to improve the general welfare of the City’s citizens, workers, and visitors.

B. GENERAL UNDERSTANDING

1. For purposes of this Agreement, “Home Banner” shall mean a banner designed to be attached to light poles and other standards in downtown Atlanta and that bears either the “Peachtree Street” design or “Phoenix” design previously approved by the City of Atlanta for use on such banners.
2. The major elements to the “Downtown Atlanta Home Banner” program are listed below:
 - a. The Program is funded entirely by the District, which will provide funding for the purchase, installation, and maintenance of all Home Banners and associated hardware. No City funds will be used to implement the Program.
 - b. Permanent Home Banner locations consisting of key intersections and other appropriate locations shall be identified by the District and approved by the Commissioner of Public Works, or his designated representative, within fifteen (15) days of the execution of this Agreement. The District will create a map identifying the intersections and other locations at which light poles and other standards shall be designated as permanent Home Banner locations.
 - c. The District will place Home Banners, or cause such Home Banners to be placed, on the approved permanent Home Banner locations, and on such additional locations as may be approved from time to time by the Commissioner of Public Works or his designated representative.
 - d. The District shall be responsible for monitoring the condition of all Home Banners, and for replacing within two business days any Home Banners that are damaged, destroyed, stolen, or lost by any means. If practical matters prevent the replacement of any Home Banners within two business days, the District shall notify the Commissioner of Public Works of such delay in writing as soon as possible, and shall state the reason for such delay, as well as the anticipated date by which all Home Banners will be replaced.

- e. The District shall coordinate the installation and removal of all Home Banners using a contractor identified and approved in writing by the City of Atlanta.
 - f. No City agency may use any City personnel or any City equipment to install or to aid in the installation of any Home Banners along the City right-of-way associated with this Program.
 - g. The District shall be permitted to install and display Home Banners on poles and light standards not equipped with existing brackets upon approval of the Commissioner of Public Works or his designated representative.
 - h. The District may install and display at its own cost additional Home Banners at authorized locations in support of special events, either at its own discretion, or at the request of the Mayor or the Commissioner of Public Works.
2. The Commissioner of Public Works or his designated representative shall require any person or entity granted a permit for the installation of special event banners on designated Permanent Home Banner locations to pay for the removal, storage, and reinstallation of any permanent Home Banners removed from such locations. Such payment shall be made through an agreement between the person or entity sponsoring the special event and the City approved contractor who shall be responsible for removing the Home Banners, installing the special event banners, storing the Home Banners, removing the special event banners, and reinstalling the Home Banners.
 3. The District agrees to indemnify and hold the City, its officers, agents, and employees harmless from any and all claims arising out of the placement of, maintenance of, use of, or removal of Home Banners, including claims of Home Banners or brackets falling on persons or property.
 4. The Commissioner of Public Works shall have the authority to rescind this Agreement upon a written determination that the District has failed to substantially comply with the conditions of this Agreement; provided, that the Commissioner of Public Works shall first provide written notice containing such determination to the District, and allow ten (10) business days from receipt of such notice for the District to demonstrate substantial compliance with all conditions of this Agreement.
 6. The Program will be renewed on an annual basis as long as both parties agree, and adequate funding is available. Upon termination of the Program, regardless of the circumstances, the District agrees to remove all Home Banners within 10 business days, at the District's own expense.
 7. In consideration of the District's ongoing commitment to fund the Home Banner Program, no permit shall be required and no fees will be assessed by the City to the District for this Program. However, any damage to light standards as a direct result of the Program will be the responsibility of the District.
 8. Any amendment, change, or modification to this Agreement must be agreed to in writing by both parties.

9. The Effective Date of this Agreement shall be the date first noted above.

10. Each party represents and warrants that it has the authority to enter into this Agreement and that its governing body has authorized, by proper action, the execution and delivery of this Agreement.

**DOWNTOWN ATLANTA
COMMUNITY IMPROVEMENT
DISTRICT**

A.J. Robinson
President
Downtown Atlanta Community
Improvement District

Date _____

**CITY OF ATLANTA
DEPARTMENT OF PUBLIC
WORKS**

John Griffin
Interim Commissioner of Public Works
City of Atlanta

Date _____